

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant(s):	Friddle <i>et al.</i>	Group Art Unit: 1646
Application No.:	09/975,308	Examiner: R. Li
Filed:	10/11/2001	Atty. Dkt. No.: LEX-0252-USA
Title: Novel Human 7TM Proteins and Polynucleotides Encoding the Same		

#19

PETITION UNDER 37 C.F.R. § 1.181(a)
REQUESTING WITHDRAWAL OF HOLDING OF ABANDONMENT

Commissioner for Patents
Mail Stop Petition
Alexandria, VA 22313

Sir:

Appellants acknowledge the receipt of the Communication mailed on November 18, 2003 (Paper No. 18; hereinafter referred to as "Paper No. 18"), in which the Examiner indicates that the present application has been abandoned for failure to timely file an appeal brief. Appellants request the withdrawal of the holding of abandonment, as an Appeal Brief in the present case was timely filed and received by the United States Patent and Trademark Office ("the Office"), as discussed in detail below.

Pursuant to 37 C.F.R. § 1.181(f), the deadline for filing the present Petition is January 18, 2004, which falls on a Sunday and is therefore extended until Monday, January 19, 2004 under 37 C.F.R. § 1.7. The Petition is thus timely filed. Appellants believe no fees are due in connection with this Petition. However, the Commissioner is authorized to charge any required fees or credit any overpayment to Deposit Account No. 50-0892.

REMARKS

On March 4, 2003, Appellants timely filed a Notice of Appeal, along with a Petition for Extension of Time under 37 C.F.R. § 1.136(a) for one month, in response to the Office Action mailed from the Office on November 4, 2002, which finally rejected claims 1-3. The Notice of

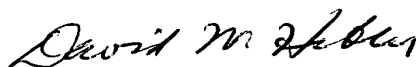
Appeal was received in the Office on March 11, 2003. On June 11, 2003, Appellants timely filed, by Express Mail, an Appeal Brief in the above referenced case, in triplicate, along with a Petition for Extension of Time under 37 C.F.R. § 1.136(c) for one month, as evidenced by the Express Mail receipt (**Exhibit A**). The Appeal Brief and Petition for Extension of Time were received by the Office, as evidenced by the postcard stamped by the Office with the date June 11, 2003, received by Appellants (**Exhibit B**).

Paper No. 18 indicates that the present application has been abandoned for failure to timely file an appeal brief. Given the above evidence that Appellants have in fact timely submitted an Appeal Brief in the present case, it is Appellants position that the present holding of abandonment is in error. Appellants therefore respectfully request the withdrawal of the holding of abandonment in the present case.

Appellants can find no support to indicate that 37 C.F.R. § 1.181 requires that three copies of the Appeal Brief as originally filed on June 11, 2003 be included with the present Petition. Therefore, given the position of the Office against filing duplicate papers, Appellants have not included triplicate copies of the Appeal Brief originally filed on June 11, 2003 with the present Petition. However, upon request from the Office, Appellants will provide triplicate copies of the Appeal Brief as originally filed on June 11, 2003 to the Office.

Respectfully submitted,

January 16, 2004
Date



David W. Hibler
Agent for Appellants

Reg. No. 41,071

LEXICON GENETICS INCORPORATED
8800 Technology Forest Place
The Woodlands, TX 77381
(281) 863-3399

Customer # 24231



RECEIVED
JAN 29 2004
TECH CENTER 1600/2900



EV 232150112 US



UNITED STATES POSTAL SERVICE®

Customer Copy
Label 11-F June 2002

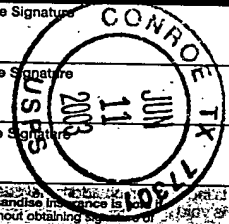
Post Office To Addressee

ORIGIN (POSTAL USE ONLY)

PO ZIP Code 77301	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> Second <input type="checkbox"/>	Flat Rate Envelope <input type="checkbox"/>
Date In Mo. Day Year Jan 11 2003	<input checked="" type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$53.45
Time In <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
Weight 9 lbs. 11 ozs.	Int'l Alpha Country Code	COD Fee Insurance Fee
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials [Signature]	Total Postage & Fees \$53.45

DELIVERY (POSTAL USE ONLY)

Delivery Attempt Mo. Day Jan 11 2003	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Delivery Attempt Mo. Day Jan 11 2003	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Delivery Date Mo. Day Jan 11 2003	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
<input type="checkbox"/> WAIVER OF SIGNATURE (Domestic Only) Additional merchandise insurance is required. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.		
NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday		



CUSTOMER USE ONLY

METHOD OF PAYMENT:

Express Mail Corporate Acct. No. X773014

Federal Agency Acct. No. or
Postal Service Acct. No.

FROM: (PLEASE PRINT)

PHONE 281 863 3333

LEXICON GENETICS INC
8800 TECHNOLOGY FOREST PL
THE WOODLANDS TX 77381-1160

LEX-0252-USA

TO: (PLEASE PRINT)

PHONE 703 308-1202

Mail Stop Appeal Brief - Patents
USPTO
PO Box 1450
Alexandria, VA 22313-1450

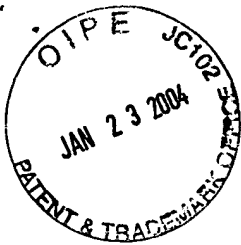
PRESS HARD.

You are making 3 copies.

FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com



Best Available Copy



Assistant Commissioner for Patents Box Appeal Brief - Patents

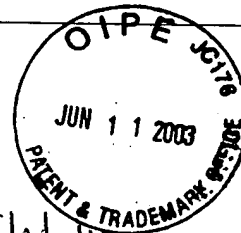
Express Mail#
EV 23215012 US

Date Mailed: June 11, 2003 U.S. Appl. Ser. No.: 09/1975,308

Inventors: Friddle et al.

Title: Novel Human TTM Proteins and Polynucleotides
Encoding the Same

Attorney Docket No.: LEX-0252-USA



- ☒ Petition for Extension of Time (Original and Copy)
- ☒ Transmittal Form
- ☒ Return postcard
- ☒ Fee Transmittal (Original and Copy)
- ☒ Other: Appeal Brief

Exhibits A-Q

RECEIVED

JUN 18 2003

POSTED
Per. [initials]

Filed in
Triplicate

Best Available Copy